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Adjusting to
A Changing Church

Struggle Within
the Church

Revising Canon Law

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Cardinal Speaks Out

Tenacious and dedicated Catholics, sometimes at the price of unjust reprisals—study, pray and work to assure that the spirit and reforms of Vatican II are not repudiated. Thank God there are bishops who show precisely how this struggle, despite inevitable misunderstanding and pain, may be made fruitful.

High on the list is Cardinal Suenens whose timely book *Coresponsibility in the Church* will gradually work its way into Catholic thinking. In a recent speech in Austria, he had more to say on sharing Christ's authority. "The more active the role of the episcopate," he declared, "the more the national churches develop their own characteristics, the more the Christian people expand themselves through a diversity in rites, theology, discipline and usage, so much more the papal primacy will be able to exercise its specific function which is to assure the unity and cohesion of the Church."

Referring candidly to the steadily deteriorating state of communications within the Church, he maintained: "We need dialogue, not a monologue at the center." In his view, more not less, authority should be given the bishops, and, balancing this, that communications should be improved all along the line: between the pope and the bishops, bishops and their priests, priests and the faithful.

Belgium's great cardinal had constructive suggestions for the coming synod to be held in Rome. He felt that new procedures for the relationship between the Pope and the bishops should be established, and that the cardinals of the Roman Curia ought not to vote in the sessions of the synod. He revealed that he, too, had been thinking of a Third Vatican Council where the bishops of the world might undertake "a democratizing of the government of the Church."

All this is heady wine indeed. But it is the responsible conviction of one of the architects of Vatican II, a cardinal who commanded the respect of recent popes, and a bishop who has unbounded confidence in the Spirit's continued presence and guidance of Christ's Church.

JOHN T. MCGINN, C.S.P.

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Adjusting to a Changing Church

Bishop Joseph L. Bernardin

Sometime ago (maybe it is still on the air) there was a popular television show entitled "To Tell the Truth." Three people would pretend to be a particular person and it was the task of the panel to decide after a period of interrogation, which of the three was really the person in question. The questioning, of course, would produce three different images of the person and after it was over, the master of ceremonies would ask, "Will the real Mr. So-and-So please stand up?"

Now I feel somewhat like this today about the Roman Catholic Church. Until recently, Catholics—in the minds of many people—were easily identifiable because they were so stereotyped. But this is no longer true. Both inside and outside the Church there are almost as many views of Catholicism as there are persons writing or talking about it. At times the picture which emerges is so confusing and contradictory, you feel like asking, "Will the real Catholic Church please stand up?"

The immediate reason for this change, of course, is the second Vatican Council which ended in December, 1965. We all know why Pope John called the council. While there was no crisis in the sense that

there was no heresy or schism threatening the Church's unity, there was a crisis of irrelevancy.

The Church's message too frequently had failed to elicit a response on the part of modern man. People the world over were wrestling with problems of all kinds: problems stemming from the struggle on the part of many to acquire a way of life consistent with the demands of human dignity; problems related to family life; conflicts arising from an increasing secularization of society; tensions caused by the efforts—often frustrated—to bring about a lasting and just peace.

Christ's message, we believe, has an answer for all of the world's problems. But the Gospel was no longer influencing the minds and hearts of vast numbers of people. For them, somehow, the Christian mes-

With the permission of Bishop Bernardin, General Secretary of the National Conference of Catholic Bishops.

This is the text of an address, delivered on Oct. 30, 1968, at the University of Bridgeport, Bridgeport, Conn.

sage had lost a great deal of its meaning; it no longer seemed really adequate for resolving the problems which men were facing.

Pope John, who was so sensitive to human needs and aspirations, understood the difficulty. He realized in a way which was truly exceptional that the Gospel message still had meaning for the people of today. If that message was misunderstood; if it seemed to have lost its relevance to the needs and problems of modern man, it was only because the incrustations of times and cultures different from our own had hidden its essential beauty and meaning.

LOOKING AHEAD WITHOUT FEAR

In calling the council, therefore, the Holy Father stated in his opening message exactly what its task would be:

"Illuminated by the light of the council, the Church . . . will become greater in spiritual riches and, gaining the strength of new energies therefrom, she will look to the future without fear. In fact, by bringing herself up-to-date where required . . . the Church will make men, families and peoples really turn their minds to heavenly things!"

It would be necessary, he continued, that the Church "ever look to the present, to the new conditions and new forms of life introduced into the modern world which have opened new avenues to the Catholic apostolate."

It is important to understand, in considering the effect the council has had on the Church, that Vatican II did not happen in a vacuum: there had been a certain amount of preparation for it. Recently the editor of a prominent Catholic journal, reflecting on the death of Pope Pius XII and the decade which has passed since then, remarked:

"Those who like what they see, as they look back over the last 10 years, are likely to credit Pope John—that simple, wise man—with opening not only windows but flood-gates to unforeseeable change and diversity in the Church. They may overlook the seeds planted by his predecessor: the opening to

new currents in Scripture scholarship, public worship, Christian humanism, and a more mystical and charismatic self-image of the Church itself. But these seeds were to shape up and take flower when John became Pope, and still more abundantly with Vatican Council II."

Even though the seeds of the renewal which we are now experiencing were sowed long before Vatican II, the changes which the council introduced took many people, even those in positions of leadership within the Church, by surprise. In a sense, however, this was to be expected in view of our immediate past history. After the Reformation the Catholic Church went on the defensive. In the Counter-Reformation, which produced the theology which we have taught and practiced for the past 400 years, we began to build walls around ourselves, adopting rigid positions both in doctrine and practice.

UNHEALTHY RIGIDITY AND UNIFORMITY

In time, we began to equate, in fact if not in theory, this rigidity with the very essence of the Church. People began to think that this rigidity, which resulted in almost total uniformity, had always characterized the Church. They had forgotten that this was not always so. They had forgotten, for example, that in the high Middle Ages—the 13th century—discussion was open and unhampered and St. Thomas Aquinas and his colleagues addressed thousands of students at the universities of Paris, Oxford, Salamanca and Bologna.

They did not hesitate to throw the treasures of Christianity into the marketplace of ideas. This was one of Catholicism's finest hours: openness, ferment and freedom coexisted with fidelity to the Church and a true spirit of Christian love.

It is true that there are many unchanging elements in the Church, and this unchangeability rests in Christ. He founded her, reveals God through her, empowers her to grow and guarantees her life. It was He who built her upon a rock. The Church, according to the late Cardinal Suhard of Paris, is the "undying prolongation of the Savior in time."

But it was also Christ Himself who compared the Church with the living realities with which His listeners were familiar: a mustard seed, a vine, a flock of sheep. His message in all these parables was clear: The Church is alive, she grows, she constantly changes without, however, ever losing her identity. It is against this background that we must understand Pope John's charge to the council Fathers in October, 1962:

"From the renewed, serene, and tranquil adherence to all the teaching of the Church in its entirety and preciseness . . . the Christian, Catholic and apostolic spirit of the whole world expects a step forward toward a doctrinal penetration and a formation of consciousness in faithful and perfect conformity to the authentic doctrine, which, however should be studied and expounded through the methods of research and through the literary forms of modern thought. The substance of the ancient doctrine of the deposit of faith is one thing, and the way in which it is presented is another. . . ."

PASTORAL RELEVANCE OF THE GOSPEL

The council Fathers took Pope John at his word. By the time the council ended in December, 1965, a series of 16 documents had been promulgated. A review of the documents indicates clearly that Vatican II was not a doctrinal council which was primarily concerned with the formulation of dogmatic pronouncements. Neither was it a polemical council which spent its time denouncing heresies. It was, as Pope John said it was supposed to be, a pastorally oriented council which was designed to give pastoral relevance to the message of the Gospel.

But this was only the beginning. The important thing—and in a sense this is the real genius of the council—was that no doors have been closed to future development. As a matter of fact there are certain inconsistencies within the individual documents and among the documents. These inconsistencies are due mainly to two opposing tendencies which were preva-

lent among the authors of the documents. One was strongly scholastic and conceptualistic; the other more biblical and oriented toward salvation history.

Toward the end of the council, Pope Paul explained how the conciliar teaching was to be understood and applied. First of all, he indicated that the documents are to be considered as the guidelines which are needed for future growth and development.

It would be a mistake, then, to look upon the documents as definitive statements which have brought us to another level of doctrinal development, but will now freeze us at that level for an indefinite period of time.

CONTINUING DOCTRINAL DEVELOPMENT

Secondly, the Pope stated that the documents themselves present a true development of doctrine because they are a synthesis: they bring together into union, after analyzing their respective content, complementary truths—truths which at first may have appeared opposed or contrary.

The renewal which was formally introduced by the council has brought about, as you know, many changes in the Catholic Church. I do not have the time to review for you all these changes in detail. I would like, however, to speak briefly about two.

One of the most significant changes is in our understanding of the Church herself. Vatican II has reaffirmed the hierarchical structure of the Church as outlined nearly 100 years ago in the first Vatican Council. If anything, the affirmations of Vatican II have further clarified and strengthened the central, unique position of the Holy Father and the bishops who are united with him. This structure, we believe, was willed by Christ Himself.

At the same time, however, Vatican II in its Constitution on the Church attempts to give another vision of the Church—one which is, at once, more biblical, historical, vital and dynamic than many of the images of the past. In this new vision, the emphasis is on people. While the institutional aspects of the Church cannot be ignored, the Church is basically a people to whom God communicates Himself in love.

The Church is envisaged as continuing the work of Christ, the Good Shepherd—a work of redemption and reconciliation. As the Good Shepherd came to serve and not to be served, so the mission of the Church is one of service to God's people and all the authority given to her by Christ should be understood within the context of service.

Such a concept of the Church has already brought about many changes and it will necessitate many more. We are all realistic enough to know that we must have order; that without structure our human condition would become chaotic. But in our new vision of the Church we must also remember that structure is always intended to help people, to bring out the best in them. It may well be that some of the Church's structures—not those, of course, which Christ willed, but rather those which have been conditioned by other times and cultures—will not stand this test.

FIRST STEPS IN LITURGICAL CHANGE

Another area where significant changes have taken place is in our liturgy or public worship. In a sense, more visible progress has been made in this field than in any other. The Constitution on the Liturgy was the first to be promulgated and everytime we attend Mass we are made aware of the changes which that document has brought about. English has been introduced; our congregations are singing; our altars have been turned around; lay lectors are reading the Scripture and leading the congregational prayers and hymns.

But despite these many changes, we cannot delude ourselves into thinking that our liturgical renewal has been accomplished and that nothing more needs to be done. The Liturgy goes far beyond externals. It is a sacred action through which, in union with Christ, we worship God and share His life. When we share God's life, we become one with Him, as the vine and branches are one.

The outward appearance of the liturgical celebration must always be the outward, fully human expression of an inward worship. And this inward worship consists in

associating oneself with the disposition with which Christ Himself offers His worship to the Father: a disposition of obedient love.

If this love, which prompts us to accept completely God's plan for us, is truly an integral part of our worship, then the liturgy should have a tremendous effect on our lives. There should be a carry-over to our daily life as it is lived in our families and among our friends and business associates, where we spell out in our everyday activities the dedication we pledged at prayer.

CHANGE EXTERNAL AND INTERIOR

The important question is whether the liturgical renewal has really taken hold. Has the liturgy truly affected our minds, hearts and wills so that when we come together to celebrate the Eucharist we are conscious of the bond of love which unites us; aware of our identity as God's people? Has the Liturgy affected or changed us to the point where our day-to-day life is marked by more love, understanding and patience?

If we are really honest with ourselves, I think we must admit that the Liturgy has not had the full effect it is intended to have. There is still too much of a gap between what we do in church on Sunday and what we do the rest of the week.

The proof of this is that, at a time when church-going is so prevalent and fashionable, our country is deeply troubled by prejudices and injustices of all kinds. At a time when the Church is most visible in terms of numbers and facilities, God is being slowly divorced from any real role in determining what is right or wrong about the conduct of our lives.

It is time to come to grips with this problem. And coming to grips with it is going to involve much more liturgical development and adaptation than we have experienced so far. Within the framework which has been established by lawful authority, we should always be looking for new, imaginative ways of making the liturgy more understandable, more relevant to our lives.

This is necessary because the liturgy must express, clearly and in a human way, the redemptive work of Christ which is constantly being performed among His people. Priests and people should work closely with each other in developing a liturgy which will truly unite all the members into a worshipping community, a community which is alive and sensitive to God's presence.

A great danger now, it seems to me, is the possibility that the council may lose its momentum; that the wonderful—but often relatively minor—changes which have already taken place will be understood as representing everything the council stands for. If this attitude were to prevail, the full meaning of the renewal would be missed and, in the process, the crisis of the irrelevancy of religion to everyday life would become more acute.

FEAR AN OBSTACLE

One of the problems we face today is that of fear—fear of the unknown. As I have tried to indicate, change is part of the very fabric of life; to live is to change. The current renewal, therefore, if it is to accomplish its purpose of bringing the Church more completely into the mainstream of life as it is lived day by day by countless millions of people, must involve change. And here is where the problem lies.

While we may be sure of our ultimate goal, we cannot always be sure of our immediate path. We cannot always know the direction in which change will take us. Moreover, we cannot always control the change once it begins to take place; it frequently brings in its wake excesses of various kinds, exaggerations and even errors.

This frightens many people because it threatens them, and it is this fear which prompts some to refrain from moving ahead as quickly as many would like. While prudence and the common good often require a certain degree of moderation, when the slow-down is arbitrary or stems from fear, it can cause a great deal of tension and conflict.

What is needed in such a situation to enable us to look upon the changes demanded by the times as challenges instead of threats? First of all, we must have a correct understanding of truth and how our knowledge of the truth progresses. As the late Archbishop Paul J. Hallinan once said:

"Truth is not a big chunk of solid stone. Only in the mind of God is it immutable. In us poor humans, it can be only a series of snatches of what is true. There are eternal truths of knowledge and conduct, but we must carefully distinguish between those things revealed by God through the custody of those He has designated, and those convenient principles which, although they help men to live well, are not unchanging either by centuries or by continents."

While we can never change the objective content of revealed truth, we must continue to harmonize that truth with the new knowledge we acquire about man and the world. We must try to find better ways of expressing it—ways which will be meaningful to the men of every age.

OPENNESS AN URGENT NEED

A second quality we must possess if we are to avoid the crisis which grips many parts of the Church today is openness. There must be a real willingness on our part to listen to another person's point of view. We must try to find out what he really means when he says or does certain things.

Just because a person uses a terminology which is different from ours, this does not mean that his position is totally different from ours. Still less does it mean that his position is incorrect.

Too often a person will turn off someone else and consider him as a threat to orthodoxy simply because the one does not understand what the other is saying. To avoid this, we must be open; we must be willing to communicate. And this will require of all of us a great deal of patience and humility.

Finally, if the present crisis is to be a

threshold to a new and better era instead of a retreat into oblivion, we must have a great faith in the Holy Spirit. We must believe that He does not operate in a vacuum, but that He operates in and through our world, enfleshing it by the Word of God and making it the matrix of our life.

It is this faith which will give us that

inner dynamism needed to make us the creative, free persons God intended us to be. It is this faith which will change frustration and pessimism into tranquility and optimism by putting everything around us in proper perspective: the good and the bad, the straight and the crooked, the human and the divine. ■

Struggle

Within the Church

Bishop Christopher Butler

The Pope's encyclical on birth control has revealed a degree of discontent within the Catholic Church that poses a fundamental challenge to the traditional authority of Rome. In this interview from the London Sunday Times, Bishop Christopher Butler, the Auxiliary Bishop of Westminster and a leading theologian, examines some of the larger questions involved. Commentary by interviewer Muriel Bowen appear in italic; the Bishop's words, appropriately enough, in roman.

I want to say that I am speaking at the moment not as a bishop expounding the law but just as one of ourselves, groping about in a situation which is unparalleled in our Catholic experience. I hope to contribute in my own way toward throwing a little light on the situation as I see it.

The present crisis has shown that the Catholic body is no longer willing to accept authority in a passive way.

I should qualify that in one respect. If you were to take a Gallup poll of Catholics all over the world, you would find that the majority would support the conservative ticket. But the minority includes some of the most significant elements in the Church. For I think the discontent is concentrated in the more educated strata of the laity, among the theologians and in a group of high prelates outside Rome.

Vatican II, the great, overmastering fact in whose shadow we shall all be living for a long time, was unlike any of the great Councils of the Church. Until 1962, when it began, the Church was still living in the posture which it adopted after the Reformation—a posture of defense and “counter-protest.” I choose the word counter-protest deliberately, because it suggests the double negative.

When in a state of counter-protest, you put up all the barriers to change. And

the Church's protest against the Reformation became a protest against the whole great stream of human development in the European West. We stood apart from progress and from democracy and looked with grave suspicion on historical science.

This reached its culminating expression in 1870 with Vatican I, when the universal primacy of the Pope and the infallibility (under certain conditions of his teaching) was laid down. The doctrine thus defined was true, but it was as if we were throwing down a gauntlet in the face of modern liberalism and freedom of thought.

REVISED CONCEPT OF AUTHORITY

What then, was the function of Vatican II? It was significant, above all, the Bishop said, for its frontal revision of the old idea of authority.

It gave the opportunity for a whole lot of latent new life which was already beginning to spring up out of the shadow of authoritarian repression in the Church. It gave the chance for these newly blossoming ideas to try out their paces, as it were, before a world audience of bishops.

I don't think Pope John knew that this was the sort of Council he was inspired to set up. When they first came to the Council, only a minority of bishops were prepared to learn from the new theologians. These men, all the more vigorous for the years of repression they had endured, now established their right to exist. Their ideas, previously to be found only on the margin of Catholic life, soon bit deep into the uncommitted center of the Council.

By the last session, in 1965, the conciliar fathers were sanctioning almost any progressive document which the theologians cared to put before them.

This process, however, the Bishop believes, was by no means appreciated in every section of the Church. It was not even understood and still has not been.

Pope John described the Council's task as "aggiornamento." It means "renewal" and "adaptation." "Renewal" here does not mean innovation; it means going back to the origins of Christ himself. "Adaptation"

means translating the life of the Church into language and structures and modes of action which are fully contemporary.

But when this was taken home to the constituencies, the mass of the faithful were utterly unprepared for such a change in approach. And I don't think they have yet begun to take the measure of the Council's real meaning.

What some people *have* realized is that there is much greater freedom in the Church today than there was ten years ago. They are just beginning to take advantage of this. But they have not yet learned to use this freedom in a responsible way.

UNACCUSTOMED NEW FREEDOM

The very concept of freedom, of course, was just what older generations of Catholics could not comprehend. Yet even under the old dispensation they were mistaken in this, the Bishop indicated.

Generations of Catholics have been brought up to the view: "You are safe if you follow the Pope." Now I think, speaking as a theologian, that this is an oversimplified statement. You are indeed safe when you follow the Pope, if he is speaking with his full infallible authority. But when he is not speaking with full infallible authority, it is possible that what he says may need to be modified from other sources.

What we have got to teach the faithful is that Papal inerrancy—the incapacity of Popes to be wrong—has its limits. Plainly this is a most unpopular doctrine in some circles in the Church. But it is theologically true, and with the spread of education it becomes more and more necessary to make the point clear.

Courtesy of "THE SUNDAY TIMES" (London) where this article originally appeared, and "The Washington Post" which made it available to American readers.

This article is widely regarded as one of the most penetrating discussions on the significance of the debate among Catholics occasioned by HUMANAE VITAE.

Bishop Butler then went on to discuss the critical implications of Vatican II, and its revision of the nature of authority, for the bishops of the Church.

The Council has invited the Pope, the Bishop of Rome, to act along with the other bishops, as much as possible, in the government of the Church. It made fully clear that they are not just his delegates. They have, direct from Christ, their own authority as teachers and rulers by divine right—which means, of course, that to see the Church even in theory as built on the model of an autocratic monarchy is to give quite a false picture of it.

NECESSITY OF DECENTRALIZATION

Despite Vatican II's assertion of the independence of the bishops, a great deal more than that needed to be done by way of decentralization, the Bishop thinks.

That stage was urgent, but it is not enough. The sort of structural changes which I would envisage can be put under two broad heads.

One: decentralization of authority and administration. I say that because it is only by such decentralization that the organs of government can come close enough to those who are governed to be sensitive to what is going on. Two: we have got to learn what for us in the Church is a lost art—the art of bringing the whole body of the faithful into active participation.

At the same time as the bishops begin to use the fuller powers assigned to them by Vatican II, there should be decentralization from the seat of episcopal power down to deanery and parish level.

The Curia, too, that bastion of Roman power and exclusiveness, is due to be seriously rethought, the Bishop contended.

The criticism one would wish to level against the Curia is that it should follow the pattern of the British civil service. It should have executive and administrative functions. But the policy-making functions which it now possesses should be given to the bishops. The synod of bishops, established since Vatican II, offers some possibility of this developing.

If the Curia were divested of its policy-making power, the question of the nationality of its personnel, now very largely Italian, would have far less importance.

Nor should this total re-examination of structures by the Church be seen as an isolated and exceptional event, the Bishop indicated. It is highly relevant to the broader social context.

One of the clearest witnesses to the real spiritual struggle going on among mankind in this decade is precisely the wave of student protest all over the world. The student struggle for participation is the same struggle as the one which the Belgian Cardinal Suenens, in a Christian context, calls the struggle for “co-responsibility.”

Now this indicates to me that the structures we are living under in society, whether political, economic or religious, are no longer, as they stand, adapted to the aspirations of a generation which is far more sensitive to what life in 1968 means than the older people who still have the reins of power in their hands.

REFORMATION WITHIN THE CHURCH

The process, for the Church, was in fact correctly described as a new Reformation, but, Bishop Butler thinks, with certain crucial differences.

In the Reformation, the critics solved their problems by going, or being pushed, into schism. In the present day, the critics want to remain within the Church. That means that the discussion must continue within the Church itself, whereas when schism occurs, dialogue ceases and you get polemic between the Churches. I think this is a most exciting difference.

The present crisis has many other advantages. It is forcing us back to what we have known all along but have not attended sufficiently, namely, that it is simply and solely to man's conscience that the Christian gospel, the Catholic faith, makes its appeal. And it seems to me that at the very point where authority fails to communicate its message to the conscience, it fails to be effective authority.

I also think that the birth control en-

cyclical may turn out to have been the occasion of a great ecumenical advance, and not a regression, because it is already compelling the Catholic Church to face internal criticism of the encyclical, thus making Vatican II a living reality. The Council itself is the only genuine answer to such internal criticism.

It is not, of course, going to be a simple or short-run revolution. The Bishop conceded that transformation of the Church would take time, but he is sure it is not invalidated by that.

I would point out that it took generations to transform the English monarchy of the late Stuart period into our present constitutional monarchy. It could not have

—happened overnight. I want the Papacy to be far more like the English monarchy than like the Roman Empire. But what won the day for constitutional principles in England was that the people were prepared to go on fighting and struggling, generation after generation. That is what I hope will happen in the Church.

My conservative objectors will say: "But look, you are leaving out the element of faith." Faith is indispensable and indeed supreme, but we are human beings, and faith has got to be seen to produce a humanly credible result. If it does not do that, I am afraid, faith itself will be in danger of withering away.

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IDENTITY CRISIS

In the Catholic Church, for example, the increasing phenomenon of priests leaving their office must, of course, be seen against the background of various factors present within the Church today. Nonetheless, I am of the opinion that this phenomenon must be viewed in relation to men's anxiety about the unstructured future—whereas in earlier times it was possible to say, simply in the light of the past, "This is the work of the priesthood and it is up to me to do it," henceforward the priest must discover for himself what his real work is. Everywhere the change in orientation from past to future is accompanied by a crisis of identity—this is natural. Like children entering adolescence, we are being forced out of the warm nest of our cultural past to set off towards a future which we must construct for ourselves.

"God the Future of Man"
E. Schillebeeckx, O.P.

Revising The Code Of Canon Law

Peter Shannon

Two days ago, it began to snow here in Chicago—beautiful white flakes floating serenely from the heavens upon our homes and streets and trees. The snow has continued to fall. It still looks beautiful, it is beautiful, but it is also crippling and devastating. All roads are impassable. Thousands are marooned. A huge city is paralyzed.

Fifty years ago some brilliant men, under the direction of Cardinal Gasparri, wrote a book of rules or canons, some 2,414 canons. These canons, like the snowflakes, looked beautiful, and in a sense, are beautiful. Most canon lawyers admit that Gasparri and his associates brought order out of chaos, the chaos of nineteen centuries of disparate, obscure, often unintelligible Church laws. As a Code of Law, Gasparri's work is a masterpiece—precise, clear, complete. Yet this same Code of Law has in some ways over the last fifty years partially disabled the city of God. What seemed a thing of beauty has quite often proved a liability, rather than an asset. The Code, which Pius X and Gasparri knew would bring to the Church a greater unity through law, unwittingly also brought into the Church a crippling uniformity. It wasn't

the fault of Pius X, or Benedict XV, or Gasparri. It was nobody's fault, and yet it was everyone's fault.

I have been assigned to analyze the Code's effectiveness over the past fifty years. A thorough analysis would demand a series of books, rather than an article such as this. It is my opinion that as a legal order or system, the Code leaves much to be desired, although obviously some aspects of the Code are commendable. Four reasons, which I shall comment upon briefly, may perhaps explain the basis for my criticism of Canon Law in general and the Code of Canon Law in particular.

Theology, the study of the existence, nature and laws of God, is concerned with the twofold relationship between a God who invites and man who responds. Man's response, basically through service of his fellow man, must be a human response, autonomous and free. Man chooses, wills,

Courtesy of The Paulist Press. This paper originally appeared in the volume "Renewal and Reform of Canon Law," Vol. 28 of the Concilium Series (Theology in an Age of Renewal).

loves and acts "ab intra"; otherwise he ceases to be a rational creature, and his ability to respond to God's invitation is destroyed.

Some individual canons within the Code do in fact maintain and defend man's autonomy, but the Code as a whole envisions man as a creature to be directed (manipulated?) through law, directed by the Church or rather by the authorities within the Church. This vision of man was undoubtedly predicated on the assumption that the "common man" needs to be led, that he must be told exactly what to do, exactly how to respond. Thus the law multiplied, often at the expense of individual freedom. This multiplication of laws is noticeable not only in the history of Canon Law but also in the history of civil law, particularly the history of European law. The redactors of the Code were imbued with the 19th-century European legal tradition and they sought, through a complete codification of Canon Law, to regulate the bulk of man's activities.

Many believe that the Code tries to direct man "ab extra" toward his eternal goal and some feel that the Code is primarily a cudgel to keep man in line, to keep him from straying too far from the "sure" road to heaven.

LAW ROOTED IN THEOLOGY

Canon Law and theology are two distinct sciences, but the former, even though distinct, must serve the latter. Unless Canon Law sinks its roots in current as well as traditional theology, it fails to deal with the reality of man and the reality of the risen Christ communicating his Spirit to the community. Twentieth-century theology insists that Christianity is a call to greater freedom. Twentieth-century Canon Law should not inhibit that freedom, unless absolutely necessary.

Pope John and Vatican Council II did not appear on the scene until forty years after the Code. Thus Gasparri and company had some excuse for considering the Church almost exclusively as a hierarchical institution. One might not expect to find in

the Code expressions such as "the People of God", or "the family of God", but surely the concept of equality within the Church should have permeated the Code. Yet nowhere in the Code do we find such a concept.

Christ's Church was indeed founded on authority, the authority of the risen Christ conferred primarily on the pope and the bishops. But this authority is to be exercised through service of the people, who are, always were and always will be of paramount importance to the God-Man. And the "people" for whom the God-Man died and arose and to whom he now communicates the Spirit are the people of the entire world, not simply Christians, much less Catholics. All canonists today, I believe, admit that the Code, in its provisions with respect to non-Catholics, evidences a lack of pastoral concern. Some canonists, moreover, maintain that the Code implicitly equates non-Catholics with the un-saved, who become saved when and if they are by the grace if God converted to Catholicism.

DIGNITY OF THE PERSON

Even the "simple" people within the Church—laity, Religious and curates—are accorded few rights by the Code. Always the emphasis is placed on obedience, generally blind obedience, whereas love, the love of neighbor, is relegated to second place among the virtues and commands of Christ. Always the institution, the hierarchical institution, is given precedence over the person. Little wonder that millions of Christians fail to recognize the Catholic Church as the Church of Christ. Little wonder that millions of non-Christians either hate or ignore the Catholic Church. The Code should not be made the scapegoat for our Church of isolation, but it can be charged with some responsibility for separating, isolating, ghetto-izing Catholics. For the Code does view the world as evil and the Code does consider non-Catholics as people to be avoided.

One may envision the above criticism as extreme, and perhaps it is. The question, however, is not whether such criticism is

extreme, but whether it is merited. Too long have we canonists sought to defend, rather than rebuild, a vulnerable legal order; too long have we gone along with a Code that fails to reflect our 20th-century understanding of the Church; too long have we administered the law "objectively" without consideration for the circumstances, the existential situation, the "subject" of the law; too long have we allowed some institutions within the Church to discipline, silence or crush critics of the system.

WIDESPREAD INFORMED CRITICISM

The Code has been criticized by ecclesiologists for categorizing sacraments as "things" ("res"); it has been criticized by spiritual directors for so detailing the law for Religious that religious profession is considered in some circles as an abandonment of creativity. It has been criticized by bishops for complicating the procedural law of marriage, thus according only a relative handful of deserving petitioners a just hearing in the course of a year. It has been criticized by priests for devoting an entire book containing 220 canons to penal law, thus giving rise to the impression that the essence of Canon Law is "coercion" rather than "authority". These critics cannot be dismissed as "extremists" or "angry young men".

The only question today is not whether such criticism of the Code is excessive, but only whether it is prudent to speak or write openly and honestly at this particular time. I think such criticism should be made, because I fear that unless the entire Christian Community is made aware of the inequity of our present law, unless the entire Christian Community is aroused, unless the entire Christian Community is shaken from its complacency, unless the entire Christian Community realizes its responsibility to the world, then in the near future we may be faced with a new Code hardly different than our present one. Such a Code would be a tragedy, not just for the Church, but for all mankind.

The principle of subsidiarity, as formulated by Pius XI in *Quadragesimo Anno*

and enshrined by Pope John XXIII in *Mater et Magistra*, reads: "This supremely important principle of social philosophy, one which cannot be set aside or altered, remains firm and unshaken: Just as it is wrong to withdraw from the individual and commit to the community at large what private enterprise and endeavor can accomplish, so it is likewise unjust and a gravely harmful disturbance of right order to turn over to a greater society of higher rank functions and services, which can be performed by lesser bodies on a lower plane. For a social undertaking of any sort, by its very nature, ought to aid the members of the body social, but never to destroy and absorb them."

DISREGARD OF SUBSIDIARITY

The Code has produced a blueprint of detailed, centralized legislation, directly contrary to, if not contradictory of, the principle of subsidiarity. The Code gravely violated subsidiarity and unfortunately the situation has worsened since the Code. Roman Congregations have jealously guarded and systematically enhanced their prerogatives. Hundreds of directives, bearing the force of law, have been sent by the Roman Curia to the bishops, with the result that greater centralization has occurred and many "laws" have been promulgated outside the Code. The influence of the Curia reaches into every country through the outdated system of papal nunciatures and apostolic delegations, which, in many instances, have more power and authority than any individual bishop or even than a National Episcopal Conference.

Dispensations and privileges have proliferated, requiring an appeal to higher authority before performing a commonplace action. A bishop must appeal to Rome or the Nunciature for permission to spend more than \$5,000, a pastor must ask his bishop for permission to dispense with the reading of marriage banns, a curate must request the pastor for permission to dispense a parishioner from the law of fast and abstinence, a nun must ask her superior for permission to leave the convent

in order to partake of the sacrament of penance, a layman must obtain permission from his pastor or bishop to act as witness to a sacramental marriage in a Protestant church.

A certain amount of centralization is necessary in any visible society, and the Church is indeed a visible society. But the constant necessity of obtaining a dispensation, a rescript, a privilege from a higher authority before one can act disregards the principle of subsidiarity and belies the dignity of man.

NEED FOR UNDERSTANDING

The situation would not seem so restrictive if those seeking permission felt that those empowered to grant permission actually knew the local situation. But parishioners wonder if their pastors, particularly pastors of large, urban parishes, really know and understand them. Priests wonder if bishops, particularly bishops immersed in administration, really understand the pastoral needs of their people, priests, Religious and laity. Americans, Africans and Australians wonder if priests, working in the Roman Curia, have more than a superficial knowledge of the culture, customs and needs of the people in an individual country, other than Italy.

Lest we be accused of speaking in generalities, let me describe a case which is all too familiar and painful for American priests. Lizzie Smith, a Negro girl of fifteen, marries a seventeen-year-old boy in Mississippi. The marriage lasts some two months, until Lizzie and her husband realize that they really didn't understand what marriage is all about. Five years later Lizzie moves to New York, Chicago or Los Angeles, where she meets and falls in love with a good man. They marry and now have five children, all of whom are being reared as Catholics. Lizzie and her present husband have both completed instructions in the Catholic religion, attend Mass regularly and wish to become Catholics themselves.

Fortunately Lizzie was never baptized, so her parish priest knows he can refer her

to the local matrimonial tribunal, where she may or may not receive a fair hearing, and where her case may or may not be swiftly processed. A "swift process" means that the local tribunal in three months time has managed to interview Lizzie and her relatives, has tried to locate and interview Lizzie's former husband, has obtained character witnesses for Lizzie and her relatives (the law says character witnesses should be Catholic, apparently because non-Catholics are presumed to prevaricate), has received a letter of commendation from Lizzie's pastor, has checked the baptismal records of every Protestant church ever attended by Lizzie, has typed all the Acts of the case and drafted a lengthy opinion on the case to be signed by the bishop.

HARMFUL UNNECESSARY DELAY

After such a "swift process", Lizzie's case is forwarded to the Sacred Congregation for the Doctrine of Faith (formerly the Holy Office), where it will be examined and judged by a tribunal of three priests, who decide whether it is true that Lizzie was never baptized. If the proof is there, the case is a simple one, and the Holy Father is duly requested to dissolve the bond of Lizzie's first marriage in favor of the Faith. This "swift process" somehow is slowed down in Rome, slowed down so much that thirteen more months elapse before any decision is issued—a decision, mind you, that is based entirely in one fact—whether or not Lizzie was baptized.

All the time, Lizzie's parish priest is probably wondering why he couldn't simply take Lizzie's word or the word of her parents; all the time, the local tribunal, which obtained the evidence and checked the churches, is probably wondering why a Roman tribunal is any more competent than the local tribunal to judge a simple question of baptism or non-baptism; all the time, Lizzie's children are wondering why their parents cannot participate in the eucharist; all the time, Lizzie and her husband are wondering why the Church won't let them become Catholics. The above case of Lizzie is a relatively simple one and a

case that will eventually have a happy ending. But there are thousands of equally deserving cases that do not have a happy ending, because the involved procedure demanded by law is so complicated that only the largest dioceses have sufficient manpower to process such cases. Worse still, parish priests often are so disgusted with the "red tape" that they don't bother even referring people to the local tribunal.

The so-called "Privilege of the Faith", into which category Lizzie's case fell, is no isolated example of the violation of subsidiarity. The entire procedural law of marriage violates subsidiarity, as do whole sections of the law for religious and penal law.

LAW LEADING MEN TO JESUS

Salvation history, culminating in the redemption by the God-Man, reveals a God who is faithful and merciful, faithful to his people, merciful to sinners. The Church founded by Christ is meant to reflect in a visible way that same fidelity and mercy, for the Church is the body of Christ.

It would seem that Church Law should also, in some way, reflect Christ's love for the world, his mercy, his fidelity. In a word, Church Law should be charismatic, a sign to the world that the risen Christ is still communicating to men, through his Spirit, the divine mercy and love that characterized his life on earth. Church Law, therefore, should lead men to Jesus.

The Code, however, through its peculiar mixture of authoritarianism and paternalism can only turn men away from the Church and thus, in a true sense, turn men away from Christ. Since the Church is or should be a community of love, I wonder whether Church Law might better be formulated in a language of love—in a pastoral rather than dogmatic, in a hortatory rather than commanding tone. I well realize the difficulty of expressing law in non-legal terms, of encouraging and advising rather than commanding. On the other

hand, how does one command love? Can the Church so circumscribe man's external actions through law, that man has no other choice than to love the Lord God with his whole soul and love his neighbor as himself? Certainly Canon Law can facilitate the exchange of love between man and his neighbor, but love itself must be a free, human response. Otherwise "love" is tokenism or hypocrisy, but not love.

I submit that the Code is so structured and the Canons so formulated that man is commanded to observe the letter of the law, while at the same time the Code places little emphasis on observing the spirit of the law. One principle underlying the formulation of the Canons is that the reason for the law need not and should not be included in the law. (*Ratio legis non cadit sub lege.*) Such a principle has led many Catholics to equate external observance of the law with true observance of the law. Obedience to the letter of the law seems to have been substituted for love of God and love of neighbor, causing one seminarian to remark facetiously: "By this shall all men know that you are my disciples, if you learn and obey my 2,414 rules of law."

THINGS TO HOPE FOR

I hope to see the day when the Church will develop a universal, constitutional law based on the dignity and rights of all the people of God. I hope to see the day when the Church will permit a nation or region to build a legal order based on the culture of that region. I hope to see the day when theology and ecclesiology will determine the law rather than vice versa. I hope to see the day when all—priests, Religious, laity, psychologists, sociologists, anthropologists, etc.—will have a real voice in determining the law. I hope to see the day when a canon lawyer like myself can look at the law and say: "Here is reflected the love of Christ", instead of saying, as I now do in looking at the law: "Woe to us lawyers who load men with burdens they can hardly carry."

Books Received

Truthfulness: The
Future of the Church
Hans Kung
Sheed and Ward. \$4.50

Most of the material in this volume formed the subject matter of lectures delivered by the author for American and European audiences. The writer is never trivial and can always be counted upon to serve the cause of renewal. The first part of the book is especially valuable for its reflections on the modern "passion for truthfulness," the obvious departures from this ideal, and the relatively slight attention it receives from many Catholics. The author traces the history of the concept of "truthfulness," its meaning for Augustine and Aquinas and its somewhat shabby character in more recent history. This leads the author to contend that a central element in Catholic renewal is a kind of birth of truthfulness, along with its demands and its promise for the Church's mission.

God the Future
of Man
E. Schillebeeckx
Sheed and Ward. \$4.95

A year ago, Father Schillebeeckx delivered a series of lectures in the United States. He addressed a variety of audiences besides professional theologians. He also spoke to college and university groups, and his audiences included receptive and enthusiastic listeners both Catholic and non-Catholic. The major portion of this book includes five of these lectures.

His theme is the phenomenon of secularization, the various problems this poses for the Christian today, and what it might mean for the future of religion. His central point is that secularization need not be regarded merely as a dangerous obstacle to faith but could very well be the means of

purifying our religious outlook. In developing this optimistic view, he treats the relationship between "secular worship" and the Christian public worship, the Church as the Sacrament of the World, and the nature of the Church's teaching office in dealing with politics.

As usual, the author brings to his work a self discipline born of knowledge and reverence for tradition, a profound awareness of the theologian's duty to come to grips with our contemporary culture, and the courage to offer the results of his speculations to the whole Church. This is especially evident in his pages on the theology of hope. To the original essays, he has added a final noteworthy chapter which explores the interrelation between cultural change and the concept of God which emerges from a society increasingly concerned with a future promise. A somewhat demanding but most rewarding volume.

Theology of Pastoral Action
Karl Rahner
Herder and Herder. \$4.95

This is the first volume of a series on pastoral theology and practice, aimed at the needs of English-speaking people. It is a joint effort of Father Rahner and Daniel Morrissey, the American Dominican. This introductory book is offered as "a kind of white paper designed to be of use to the many different types of pastoral specialists and theologians who work in today's English-language secular city."

The first section, "The Basis of Pastoral Action" is a reflection on the principle that "authentic activity of the Church is found when man is made open to God, God as he is in himself and for us." This theme is pursued in the light of God's presence as mystery, sacrament, law and as eschatological and actual reality.

The second part: "Christians: Action

in the Church," discusses the mutual interaction of roles in the Church, both of office and the Spirit's gift of charism. The book here deals concretely with the reciprocal planning and action of bishops, dioceses, priests, parishes and the curia of Rome. This opens up areas of immense importance like that of the structure of the episcopacy, the updating of ecclesiastical bureaucracy, and the wider promise of a smoothly functioning collegiality.

Breakthrough

Dennis J. Geaney, O.S.A.

Fides. \$4.95

Father Geaney writes a weekly column and his numerous fans seldom pass up his brief essays. This volume gathers some seventy of these pieces selected for their enduring value. The author's long pastoral identification with various Christian groups, wide reading and engaging style makes him a keen and kindly observer of the religious scene in the U.S.A. His topics range over a wide field: hatred and death, happiness and love and service. The treatment is always highly personal in the sense that his ideas are the result of his own living experience and that of people close to him. While he does have strong, clear convictions, he avoids being self-opinionated or harshly critical. There are few of these essays which the contemporary Catholic cannot relate to his own life as it touches the community of Christ "On the Road to Renewal."

Infallibility and
the Evidence

Francis Simons

Templegate. \$4.95

Many factors call particular attention to this book. The topic itself; the author's previous striking article on Christian moral teaching; a large spread in *Commonweal* on the writer's main contention regarding infallibility; and the fact that a bishop (Indore in India) seriously questions the Church's infallibility. These are enough reasons to make this volume stand out on any shelf of books.

The subject of infallibility is certainly

a legitimate topic for professional theological reflection and of crucial concern for the average Christian. Along with the nature and mission of the Church, it needs re-examination, perhaps re-interpretation. The author explains that he felt that "truth about fundamentals is of fundamental importance," and coming to the conclusion that Catholic belief in the infallibility of the Church was mistaken, he "had no choice" but to state his case. While the book manifests a refreshing courage, a deep concern for persons, along with a disdain for abuses of authority and the dangers of exaggerated "supernaturalism"—many will conclude that the writer fails to win his case.

Bishop Simons has a letter in *The National Catholic Reporter* for December 18th, 1968 adding further clarification on his views and the method followed in arriving at them.

J.T.M.

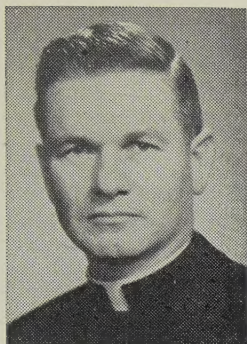
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GUIDE

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Guide Lights

ECUMENICAL SLOWDOWN . . .

What has happened to ecumenism? Unquestionably the pace of ecumenical activity has tapered off in the past year. While it is true that relationships among the various Christian churches appear to be as cordial as ever, nevertheless a great deal of this simply reflects a solidifying of contacts between ecclesiastical bureaucracies and conscientious efforts on their part to keep ecumenical items on their agenda. The gears are kept meshed and the machinery is regularly oiled, but it doesn't seem to be going any place. The participation by clergy in ministerial associations in many parts of the country continues and is encouraging evidence of an abiding recognition of each other. However, the typical monthly get-together of such groups is taking on more and more the aspects of a Rotary luncheon rather than the expression of any integral effort in mission. Theological dialogue continues at the top academic levels, but the more pastorally effective meetings of this sort that used to take place on the local level seem to have dwindled away to almost nothing in many parts of the country. Graymoor indicates that the response to Prayer Week is below last year and that there is little indication that this will change between now and January 18th.

GRASS ROOTS PLATEAU . . .

The laity, too, reflect in a very telling way the kind of inertia that seems to have settled on the ecumenical movement. The Living Room Dialogue program is still going well in many places, but a good deal of this simply reflects a quantitative increase rather than new directions attempted by

such groups. However, the cases where they do leave the living room constitute the most vital sign of ecumenical progress. Where the action is centers around those groups which have moved beyond simple dialogue to some kind of concrete action and involvement with vital human issues. In a sense these have really moved beyond ecumenism. For, while the ecumenical dimension in this kind of witness and service is most important, it has become so much a part of their lives that for the people involved, it seems almost secondary. In general, people have grown accustomed to the ecumenical stance of the churches, have adjusted to it, accepted it and gone on to other things.

There are a lot of reasons that can be offered to help explain this quiet decline and some of them will be mentioned here. However, the real significance of this "plateauing" is tied directly into the crisis-experience of the Church and deserves a more developed consideration. We are witnessing, in this ecumenical hiatus the effect of some specific responses on the part of the Church to change. At the same time, it is the absence of another kind of response to change that is probably the cause of the ecumenical failure.

BASIC KINDS OF CHANGE . . .

When any social institution is faced with a challenge to change it can respond in several different ways. Among such responses, a social institution such as the Church can change 1) at the point of contact, i.e., where the changing circumstances outside the institution actually touch it. We have many examples of this in the Church today, one of them being the development of collegiality in response to the dominant democratic urge that lies just beyond the limits of the Church in most of modern society.

2) Another way in which the Church has responded to change is by rearranging

things within the system. A good example of this is the liturgy. For, with all of the developments that have occurred in our worship we are basically still using the same items, only now they are in another arrangement. The ecumenical movement has prompted the Church to rearrange a great many relationships with other Christians as well as to re-arrange her theology.

3) Another and much more basic response to change is to separate, at least in our thinking, the basic Christian "thing" from the social institution that expresses it, and try to resituate it from scratch in the current human situation. This the Church has not officially attempted. But this is what that phenomenon known as the "underground church" actually represents in many cases. It is extremely doubtful whether any large social institution can actually do this except under the most extreme pressures from the outside. However, we may just have to attempt something like it if, not only the ecumenical movement, but the whole movement of church renewal is really to take hold in our time.

THE UNFINISHED AGENDA . . .

Before we look at this third kind of change a few unfinished items in the first two categories deserve mention. The great ecumenical principle enunciated almost a decade ago that "what can be done together should never be undertaken separately" has never been taken with full seriousness by the churches. It is enough to point to the vast material resources both in real estate, money, and management systems with their reservoir of technicians trained in all kinds of ecclesiastical enterprise, to realize how jealously the churches still guard their institutional investments. There may be good reasons why we are not pooling this type of resource but they are not theological reasons. Also, churches for the most part are still devoting the major part of their concern to housekeeping items and internal problems. This is not said in any spirit of criticism, for heaven knows these things cannot be ignored. But this almost inevitably cancels out ecumenical progress. If one may hazard a general judgment about the church's response to change it would come out something like this: Most of the church's efforts at change

have fallen into the second category, *supra*. At times, when people feel strongly enough, change comes about at the points of contact as described in the first category. However, today people are much more concerned and disturbed about national problems than they are about church problems, and this means that a good deal of the activity in the church today is self-generated and may not have much to do with the people it means to serve.

THE BIGGER PROBLEM . . .

Today the problem of ecumenism is the problem of the church. This should not surprise us for, in the long view, the 20th Century ecumenical movement is a continuation of the Reformation of the 16th Century. The issues that came to the fore in that troubled time are surprisingly similar to those discussed today, e.g., the nature of the Church, the role of authority, the nature of revelation, the gap between Christian faith and Christian life, etc. That effort at reform turned out badly and gave rise to new problems of division. If the effort to repair that division has led into a larger reform then we ought to expect that the destinies of the two should be intertwined. Today, reform is going sluggishly and therefore ecumenism is bound to go sluggishly. Any significant ecumenical advance probably lies in the direction of a united response to change such as described in category number 3. The real challenges to the Church today, i.e., faith, renewal, self-understanding and growth must be faced by the whole Church together. The Church must learn how to speak to man in his contemporary existence and must also learn how to reflect in her life as a social institution the realities of life in the modern world. To accomplish this will inevitably require a great deal more than adaptation at the point of contact or rearranging things within the system. It seems to call for a translation of the basic Christian elements from their antique social settings and their incarnation into the collective life of modern man. If and when that happens we will no longer be concerned about the ecumenical pause. In fact, we will no longer speak of ecumenical things for, the Church in the modern world will inevitably be ecumenical.

JOSEPH V. GALLAGHER, C.S.P.